

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street
Urbana, IL 61801

DATE:	November 29, 2018	PLACE:	Lyle Shields Meeting Room
			1776 East Washington Street
TIME:	6:30 p.m.		Urbana, IL 61802

MEMBERS PRESENT: Catherine Capel, Frank DiNovo, Ryan Elwell, Debra Griest, Jim Randol, Marilyn Lee

MEMBERS ABSENT: Brad Passalacqua

STAFF PRESENT: Susan Burgstrom, John Hall

OTHERS PRESENT: Marjorie Tingley, Patrick Fitzgerald, Ted Hartke, Vincent Koers, Dave Hastings, William McKee, Chuck White, Tannie Justus, Andrew Moore, Laurel Bergren, Ernst Nemeth, James Meadows, Shawn Walker, Kara Walker, Aaron Esry, Patrick Brown, George Gunnoe, Daniel Herriott, Tim Osterbur

1. Call to Order

The meeting was called to order at 6:30 p.m.

2. Roll Call and Declaration of Quorum

The roll was called, and a quorum declared present.

Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. She reminded the audience that when they sign the witness register they are signing an oath.

3. Correspondence

None

4. Approval of Minutes: September 13, 2018, September 27, 2018, and October 18, 2018

Ms. Capel stated that page 12, line 33 of the September 27, 2018, minutes should be revised as follows: Ms. Griest stated that Ms. Fruhling-Voges was very careful to indicate that it was her opinion and that she could not speak for the entire Board that this location was better than other alternatives that might come before this Board in the future.

1 Ms. Capel stated that page 71, line 39 of the September 27, 2018, minutes should be revised as follows: Mr.
2 Schneider stated that he does think that a governmental body overreaching is not appropriate.

3
4 Mr. Hall stated that the sentence would make more sense if it read as follows: Mr. Schneider stated that he
5 does not think that a governmental body overreaching is appropriate.

6
7 Ms. Capel agreed.

8
9 Ms. Capel asked staff to clarify the meaning of the numbers at the beginning of the sentence on
10 page 72, line 5 of the September 27, 2018, minutes.

11
12 Ms. Burgstrom stated that the numbers indicate the audio timestamp, but they should have been removed
13 during editing.

14
15 Ms. Lee stated that page 8, line 21 of the September 13, 2018, minutes should be revised as follows: She
16 said that regarding the revised waiver Part B., the petitioner is requesting a waiver for a distance of 425 feet
17 from the CR Conservation Recreation Zoning District in lieu of the minimum required one-half mile (2,640
18 feet).

19
20 Ms. Lee stated that she had another correction for the September 13th minutes, although she did not highlight
21 it on her copy. She said that the correction was in regard to the word task.

22
23 Ms. Burgstrom stated that staff would review the minutes for such a correction.

24
25 Ms. Capel entertained a motion to approve the September 13, 2018, September 27, 2018, and October 18,
26 2018, minutes, as amended.

27
28 **Mr. Elwell moved, seconded by Mr. Randol, to approve the September 13, 2018, September 27, 2018,**
29 **and October 18, 2018, minutes, as amended. The motion carried by voice vote.**

30
31
32 **5. Continued Public Hearing**

33
34 **Case 898-S-18 Petitioner: BayWa- r.e. Solar Projects, via agent Patrick Brown Request to authorize a**
35 **utility scale PV Solar Farm with a total nameplate capacity of 150 megawatts (MW), including access**
36 **roads and wiring, in the AG-1 and AG-2 Agriculture Zoning Districts, and including the following**
37 **waivers of standard conditions: Part A: A waiver for a distance of 1,175 feet between a PV Solar**
38 **Farm and the CR Conservation Recreation Zoning District in lieu of the minimum required one-half**
39 **mile (2,640 feet), per Section 6.1.5 B.(2) b.; and Part B: A waiver for not providing a**
40 **Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois**
41 **Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board, per**
42 **Section 6.1.1 A. 3.; and Part C: A waiver for not entering into a Roadway Upgrade and Maintenance**
43 **Agreement or waiver therefrom with the relevant local highway authority prior to consideration of**
44 **the Special Use Permit by the Board, per Section 6.1.5 G. Other waivers may be necessary. Location:**
45 **In Sidney Township the following sections are included with exceptions as described in the legal**

1 **advertisement: Sections 11, 12, 13, 14, 15, 22 and 23, Township 18 North, Range 10 East of the 3rd**
2 **Principal Meridian.**

3
4 Ms. Capel informed the audience that Case 898-S-18 is an Administrative Case and as such, the County
5 allows anyone the opportunity to cross-examine any witness. She said that at the proper time, she will
6 ask for a show of hands for those who would like to cross-examine, and each person will be called upon.
7 She requested that anyone called to cross-examine go to the cross-examination microphone to ask any
8 questions. She said that those who desire to cross-examine are not required to sign the witness register
9 but are requested to clearly state their name before asking any questions. She noted that no new
10 testimony is to be given during the cross-examination. She said that attorneys who have complied with
11 Article 7.6 of the ZBA By-Laws are exempt from cross-examination.

12
13 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign
14 the witness register for that public hearing. She reminded the audience that when they sign the witness
15 register they are signing an oath. She asked the audience if anyone desired to sign the witness register
16 and there was no one.

17
18 Mr. John Hall, Zoning Administrator, distributed Supplemental Memorandum #5 dated November 29,
19 2018, with attachments, to the Board for review. He said that the memorandum includes Mr. DiNovo's
20 property tax valuation analysis and in addition to the spreadsheet, there is proposed evidence for the
21 Findings of Fact. He said that a letter dated November 21, 2018, from Patrick Fitzgerald is included as
22 an attachment to the new memorandum, which answers questions from the November 15th meeting. Mr.
23 Hall stated that a letter dated November 27, 2018, from Shawn Walker is included as an attachment to
24 the memorandum indicating Mr. Walker's support of the proposed solar farm. Mr. Hall stated that Mr.
25 DiNovo provided a spreadsheet from EPA's Avoided Emissions and geneRation Tool (AVERT) which
26 is a computer model that estimates the reduction in pollution from the use of the solar energy versus
27 other types of energy. Mr. Hall stated that the last attachment to the memorandum indicates draft
28 testimony and cross-examination regarding noise and drainage from the November 15, 2018, meeting.

29
30 Mr. Hall stated that beginning on page 2 of the new memorandum includes responses from the
31 petitioner's attorney, Patrick Fitzgerald, regarding homework items that were provided to the petitioner
32 at the November 15th meeting. Mr. Hall noted that the responses are also indicated in Mr. Fitzgerald's
33 letter dated November 21st. Mr. Hall read item 1: Can the petitioner divide the 39 dBA noise level into
34 the relevant frequency bands that are used by the Illinois Pollution Control Board (IPCB), and the
35 corresponding noise level at each frequency band? Response: As stated in BayWa's noise report, the
36 sound level for the proposed inverter and for anticipated transformers is reported by the manufacturers as
37 dBA value; the manufacturers do not provide sound levels segregated into the energy levels within each
38 of the audible octave bands. BayWa identified the maximum permissible sound level if the IPCB
39 octave-band energy allowances were converted to an A-weighted decibel level. Without the individual
40 octave-band energy levels provided by the manufacturer, BayWa cannot segregate the resulting noise
41 levels at each receiver into their octave-band energy components.

42
43 Mr. Hall read item 2: Does the petitioner believe the solar farm inverters produce tonal noise that will
44 be subject to the "penalties" imposed by the IPCB? Response: According to an industry reference text
45 (Beranek, "Noise and Vibration Control Engineering – Principles and Applications." 1992), transformers

1 and electrical inverters produce a steady noise level, which is characterized as “tonal”. Consequently,
2 project noise limits would be subject to the 5 dBA penalty imposed by the IPCB for tonal noises. To
3 apply the penalty, the daytime and nighttime noise level limits are each reduced by 5 dBA (the penalty
4 for tonal noise). So, the identified daytime limit of 61 dBA Leq for project noise must be reduced to 56
5 dBA Leq, and the nighttime limit of 51 dBA Leq must be reduced to 46 dBA Leq, because project noise
6 would be considered “tonal”. The calculated maximum project noise level of 38 dBA Leq at existing
7 residences within 1,500 feet of the project boundaries would remain well below these limits adjusted for
8 tonal quality noise.
9

10 Mr. Hall read item 3: Will the new tiling system send water towards Sidney at a higher rate? Response:
11 The improvement of farm drain tile systems can improve the hydraulic run off characteristics within
12 agricultural watersheds, subsurface water table control causes consistent smaller and long duration
13 releases during dry periods creating more reliable depression surface storage and hydraulic soils
14 retention during intense storm periods.
15

16 Mr. Hall read item 7: How far away are the solar panels from the tracks adjacent to Mr. McKee’s
17 property? Response: The southwest point of Mr. McKee’s property (which is the closes in proximity) to
18 the railroad tracks is 195 feet. The nearest solar panel to the railroad tracks is 172 feet. The closest solar
19 panel to Mr. McKee’s property is 367 feet. Mr. Hall noted that 367 feet is well beyond the 240 feet
20 requirement in the Ordinance.
21

22 Mr. Hall read item 9: Can these panels be put in a landfill, and can they be put in a landfill in Illinois?
23 Response: I believe Section 2.4 of the draft decommissioning plan already addresses this question. It
24 provides, “All modules will be disconnected, removed from the trackers, packaged and transported to a
25 designated location for resale, recycling or disposal. Any disposal or recycling will be done in
26 accordance with applicable laws and requirements.” It is the Petitioner’s stated intention to comply with
27 any and all applicable laws and requirements including those related to recycling or disposal.
28

29 Mr. Hall stated that the special conditions are included in the new memorandum and have been updated
30 accordingly. He said that special condition H. has been revised, striking residences and adding
31 residential lots, and reads as follows:
32

33 **H. The petitioner shall install sound reduction kits from the inverter manufacturer to**
34 **each of the inverters in the solar farm so that operational sound levels for the**
35 **duration of the solar farm will be less than 39 dBA at all existing residential lots**
36 **within 1,500 feet of the project site and 39 dBA shall be the sound level that shall be**
37 **enforced by Champaign County subject to the relevant standards of the Illinois**
38 **Pollution Control Board and Illinois Environmental Protection Agency.**
39

40 The above special condition is required to ensure that:

41 **The PV SOLAR FARM is constructed consistent with the Special Use Permit**
42 **approval.**
43

44 Mr. Hall stated that special condition J.1. has been revised as follows:
45

1 **1. Maintain the required visual screening for the perpetuity of the Special Use Permit.**

2
3 Mr. Hall stated that special condition K. has been revised as follows:

4
5 **K. The petitioner will consult with all land owners and residents (both participating**
6 **and non-participating in the solar farm project) whose residences are within 1,000**
7 **feet of the solar farm regarding the types of plantings to be used in the required**
8 **vegetative screening to be planted along the nearest solar farm fence line to the**
9 **residence to minimize harm to existing residential landscaping and the Environment**
10 **and Land Use Committee shall approve the proposed screening prior to the**
11 **approval of the Zoning Use Permit.**

12
13 The above special condition is required to ensure that:

14 **Plantings to be used in the vegetative screening will not be harmful to existing**
15 **vegetation in the area.**

16
17 Ms. Capel asked the Board if there were any questions for Mr. Hall.

18
19 Mr. DiNovo stated that he placed copies of the AVERT model data on the table where the witness
20 registers are located.

21
22 Ms. Capel stated that prior to taking testimony the Board should take a few minutes to determine if
23 additional information is required from the petitioner.

24
25 Mr. Elwell stated that petitioner has taken the vast amount of testimony into account during their
26 alteration of the site, for example, the apple tree concerns. He said that the petitioner has gone above
27 and beyond what they are required to do proving that they are good stewards to the land and would be
28 good corporate neighbors. He said that personally, he does not require any additional information from
29 the petitioner.

30
31 Mr. DiNovo stated that his answer to Ms. Capel’s question depends on how the Board plans to proceed.
32 He said that the agenda indicates that Board discussion would occur prior to public testimony, but does
33 that mean that the Board would determine the Findings of Fact prior to public testimony.

34
35 Ms. Capel stated no, the Board would not determine the Findings of Fact prior to public testimony.

36
37 Mr. DiNovo stated that if that is the case, then any questions that he has could wait.

38
39 Ms. Griest stated that she agrees with Mr. Elwell’s statement. She said that having seen a number of
40 complex cases, and this case being one of the more complex and continuous cases that this Board has
41 had, she believes that this petitioner has listened to the concerns that the surrounding landowners and the
42 Board expressed and has gone over and above what was the minimum requirement. She said that as an
43 advocate for farmland protection, she believes that the petitioner has made a substantial improvement in
44 the long-term viability of the farm ground with the tiling systems that they are putting in and what they
45 have proposed. She said that the petitioner addressed concerns regarding noise mitigation by relocating

1 the project and installing housings over the inverters, ensuring that the decibel ratings would stay below
2 39 dBA. She said that she does not require any additional information from the petitioner and she is
3 ready to move forward with the case.

4
5 Ms. Capel asked Mr. Fitzgerald if he would like to make a statement regarding the request.

6
7 Mr. Fitzgerald stated no.

8
9 Ms. Capel asked Mr. Brown if he would like to make a statement regarding the request.

10
11 Mr. Brown stated no.

12
13 Ms. Capel called Marjorie Tingley to testify.

14
15 Ms. Marjorie Tingley, who resides at 1730 Georgetown Drive, Champaign, stated that she owns farm
16 ground in Section 11 of Sidney Township. She said that she would like to make it clear that her land is
17 never been under option, nor is it under option currently to BayWa-r.e. She said that solar is the biggest
18 answer to clean, renewable energy at this point and she encouraged the Board to approve this request.
19 She said that farming is not a very good hobby right now, due to the prices and over-abundance of grain
20 on the market, so taking this farmland out of production would not cause any problems. She said that if
21 BayWa-r.e. does not come into this area, she is sure that there would be other areas that would welcome
22 them because the petitioner has been very easy to work with. She said that she did not sign an option
23 because her husband was very ill, passing on December 10, 2017, and she began to research the
24 company, finding them to be very receptive to a lot of her concerns. She said that she was very
25 concerned about the long-term lease because her granddaughter will be 90 years old at the end of the
26 lease. She said that the area could use the tax revenue generated by the proposed solar farm and there is
27 not one school district who could not use additional money. She said that if Champaign County is going
28 to continue subsidizing the nursing home, then the County could use the additional tax dollars as well.
29 She said that she will continue to pay the real estate taxes on her land and she would appreciate the
30 Board's serious consideration for this request and consider what it can do for the community, school
31 districts and everyone else involved.

32
33 Ms. Capel asked the Board if there were any questions from the Board or staff, and there were none.

34
35 Ms. Capel asked the audience if anyone desired to cross-examine Ms. Tingley, and there was no one.

36
37 Ms. Capel called Vincent Koers to testify.

38
39 Mr. Vincent Koers, who resides at 603 West Woodlawn, Danville, stated that he has sporadically
40 followed this process and asked the Board why they were not requiring the petitioner to provide a
41 Decommissioning and Site Reclamation Plan, and why does the Board feel the necessity to waive that
42 requirement. He said that he just returned from Switzerland, where he was looking specifically at solar,
43 and he is not opposed to solar done properly, but the solar panels that are coming into the United States
44 are the leftovers discarded from the European Union. He said that there are authorities set up to approve
45 these panels in the United States and he hasn't seen where the Board requires authorized, approved

1 panels, which leaves the Board open to receiving the European Union’s junk that they have rejected. He
2 said that the European Union rejected up to 95% of some production capacity of groups of panels that
3 would come out of China, and after rejection of the panels in Europe, the panels go to the United States.
4 He said that if there is no protection in place, this county would end up with those panels, and the
5 disposal of those panels. He said that item 9, page 3 of the new memorandum, asked if the panels could
6 be put in a landfill, and could they be put in a landfill in Illinois, and the answer that was provided
7 basically indicates that the petitioner has already addressed this question and that it should not be a
8 concern, because the panels would be disposed of according to the law. Mr. Koers stated that the
9 question was not really answered, and after hearing the concerns and solutions that have come from
10 other people who are attempting to do what this Board is doing is to have a provision in the ordinance
11 requiring the petitioner/provider to take the panels back after their demise. He said that by having this
12 provision, the panels would not be in Champaign County and they would not be located in the landfills
13 in Illinois and make the leaking concerns someone else’s problem. He said that it is his belief that the
14 Board is avoiding solving these problems by accepting the responsibility of things that Champaign
15 County does not need. He asked why there is no decommissioning report.

16
17 Ms. Capel asked Mr. Hall to address Mr. Koer’s question regarding the decommissioning plan.

18
19 Mr. Hall explained that the decommissioning report is proposed to be submitted the Champaign County
20 Environment and Land Use Committee (ELUC), a sub-committee of the County Board, for approval
21 prior to drawing a construction permit. He said that he is glad that this Board is not required to hammer
22 out the Decommissioning and Site Reclamation Plan during this hearing because it takes a lot of time, it
23 is a very intensive process, and it is to be done later as the project gets closer to construction, and the
24 petitioner has agreed to go before ELUC to get the Decommissioning and Site Reclamation Plan
25 approved during a public meeting.

26
27 Mr. Koers stated that special condition D indicates that the Zoning Administrator shall not authorize a
28 Zoning Use Permit until the petitioner submits a copy of an executed Agricultural Impact Mitigation
29 Agreement with the Illinois Department of Agriculture per the requirements established in Paragraph
30 6.1.5.R. of the Zoning Ordinance. He read that the special condition is required to ensure the following:
31 that the land affected by the PV SOLAR FARM is restored to its pre-construction capabilities. He said
32 that the last information that he received from the Federal Farm Administration is that farmland taken
33 out of production cannot be brought back to its Class A farm status. He said that rules were made to be
34 changed and there is no assurance that someone would not decide that this is an obsolete requirement,
35 because none of us have a crystal ball, but indicating that the only thing that has to be done is to remove
36 the panels and return to farming after 45 years has passed is not an assured situation. He asked Mr. Hall
37 if the answers in the memorandum are his, and does Mr. Hall have the certification from the state that
38 this land could be put back into production.

39
40 Mr. Hall stated that Mr. Koers is confusing two different things, the ability to farm the land and whether
41 the land is productive, with the ability to enter the land into farm programs. He said that he knows
42 nothing about re-entering reclaimed land into farm programs, and this is essentially intended to address
43 the whole purpose of the Agricultural Impact Mitigation Agreement, which is to make sure that when
44 you dig a trench, you do it in such a way that it does not permanently disturb the soil profile, and as you
45 do all of these things, you are doing them in such a way that the land could be put back into production,

1 regardless of whether you can enter into farm program support or not.

2
3 Mr. Koers stated that pre-construction capabilities include the pre-classification of the land, and simply
4 saying that once the panels are removed, the farmland could be plowed doesn't meet that criteria. He
5 said that perhaps he does not understand all of this, but he does understand enough to know that what
6 has been discussed does not meet the verbiage and ensures that Ms. Tingley and her granddaughter could
7 go back to farming the land productively without encumbrances because it was out of production and
8 subject to whatever drippings occurred during the panels' lifetime.

9
10 Mr. Hall stated that he sees no reason why the land could not be put back into production.

11
12 Mr. Koers stated that it cannot go into production if it has been contaminated.

13
14 Mr. DiNovo stated that this Board has not received one iota of serious evidence suggesting that any
15 material leaks out of the panels. He said that not one piece of scientific evidence has been submitted to
16 this Board suggesting that leaks out of the panels are a risk.

17
18 Mr. Hall stated that Mr. DiNovo is correct. He said that there is a clause in the Decommissioning Plan
19 requiring that the soil must be tested for contamination.

20
21 Mr. Koers stated that the federal requirements state that if there is contamination, the landowner cannot
22 grow products for animal or human consumption on the land.

23
24 Mr. Hall stated that the petitioner has committed to providing those tests, and if contamination is
25 discovered, then that issue would be dealt with at the time.

26
27 Mr. Koers stated that he would differ with Mr. DiNovo in that there is no evidence of contamination
28 from panels because there are all kinds of evidence that can be found in many available reports. He said
29 that contamination does not occur every time, but the question is, what happens when it does occur in
30 Sidney Township. He said that contamination could occur, and it has in other locations, and there is no
31 assurance that it won't happen here. He asked Mr. Hall to indicate what happens when the
32 decommissioning funds diminish, would the landowners have to complete the clean-up of the site.

33
34 Mr. Hall stated that the petitioners are committed to doing the decommissioning, and like the County
35 required during the wind farm hearings, the petitioners are putting up the money to put towards the
36 decommissioning, and they absolutely must complete the decommissioning.

37
38 Mr. Koers asked Mr. Hall to indicate what happens if the company goes bankrupt.

39
40 Mr. Hall stated that hopefully they will not go bankrupt because staff will be monitoring their credit
41 ratings.

42
43 Ms. Griest stated that the County would have an Irrevocable Letter of Credit, and if funds are only on
44 deposit or demand, the release of those funds could be challenged, whereas an Irrevocable Letter of
45 Credit can be drawn upon even if there is a challenge.

1
2 Mr. Hall stated that they are required to complete the decommissioning, and he suspects if they run out
3 of money the County would end up spending a lot of time on it, but we cannot guarantee perfection and
4 the State's Attorney has been pleased with how the wind farm was completed, and something bad could
5 always happen.

6
7 Mr. Koers thanked Mr. Hall and the Board for their time.

8
9 Ms. Griest stated that Part B. does not waive the requirement for a decommissioning plan in any way,
10 shape or form, but delays the preparation of the decommissioning plan to a time when there is sufficient
11 information available to know exactly what would be decommissioned and to appropriately estimate
12 those costs, whereas, this Board does not have that expertise nor should this Board be evaluating a
13 decommissioning plan. She said that the evaluation of a decommissioning plan should be done by
14 someone with more expertise in that field than any of these Board members bring to the table. She said
15 that she believes that Part B. is a very good waiver and that perhaps the ordinance should be amended to
16 require the decommissioning plan to be required at a different time, rather than before the approval of
17 the special use permit. She said that it was more of an oversight by this Board in not indicating that the
18 decommissioning plan needs to be done, and not prior to the special use permit but before the permit for
19 construction is issued. She said that this is a scheduling technicality and does not relieve the petitioner
20 in any shape or form from the decommissioning plan or the decommissioning itself, and only puts it in
21 the proper order. She said that she understands Mr. Koers' concern, because she is a staunch advocate
22 for decommissioning plans and those funds being deposited and available, but it is a better choice to
23 have it done at the proper time rather than taking a literal big guess by this Board prior to issuance of the
24 special use permit.

25
26 Mr. Koers thanked Ms. Griest.

27
28 Ms. Capel asked the Board and staff if there were any questions for Mr. Koers, and there were none.

29
30 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Koers, and there was no one.

31
32 Ms. Capel called Dave Hastings to testify.

33
34 Mr. Dave Hastings, who resides at 25 Meridian Terrace, Paxton, stated that he owns a parcel of ground
35 in Section 22 that is under a lease with BayWa-r.e. He said that he is concerned that there are no quality
36 control requirements for the proposed solar panels, because it is his understanding that over time the
37 panels deteriorate and must be changed out. He said that if a low-quality panel is installed in the first
38 place it is a good guess that it will have to have a regular replacement schedule, and he is not sure that
39 the landowners want that, and there is concern regarding no requirement for the quality of the panel
40 during the initial installation.

41
42 Mr. Elwell asked Mr. Hall to discuss the 25-year warranty that is attached to the proposed panels.

43
44 Mr. Hall stated that there are a lot of incentives for using Tier 1 panels, although Tier 1 panels are not a
45 requirement in the ordinance. He said that if Tier 1 panels are not being used, the cost of the

1 decommissioning and reassurance increases.

2
3 Mr. Hastings stated that, as a landowner, he would have to follow the process with each step as it moves
4 forward.

5
6 Mr. Hall stated yes. He said that quality of the panels will be a requirement during the review of the
7 decommissioning and site reclamation plan, because that will establish the type and amount of the
8 assurance.

9
10 Mr. Hastings asked Mr. Hall if he knew when the decommissioning plan would come to fruition.

11
12 Mr. Hall stated that he does not know, but he hopes that it is at least two months before construction
13 because it would take a couple of public meetings at ELUC before anything is approved. He said that
14 hopefully, as a participating landowner, he will know when the time approaches before staff does, but
15 Mr. Hall advised Mr. Hastings to call staff on a regular basis to determine the status.

16
17 Mr. Hastings stated that he did not expect Mr. Hall to have an answer but wondered if the Board had
18 considered it.

19
20 Ms. Capel asked the Board and staff if there were any questions for Mr. Hastings, and there were none.

21
22 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Hastings, and there was no one.

23
24 Ms. Capel called Ted Hartke to testify.

25
26 Mr. Ted Hartke, who resides at 1183 CR 2300E, Sidney, stated that special condition I.3. indicates the
27 following: A noise study to verify that the required sound reduction kits for all inverters result in no
28 more than 39 dBA noise level at all existing residences within 1,500 feet of the project site. Mr. Hartke
29 stated that during a previous meeting it was discussed that the text “no more” should be replaced with
30 “no less”, which will match special condition H. Mr. Hartke stated that at the last public hearing he
31 asked Mr. Leech, noise consultant for BayWa-r.e., about noise and his methods for measuring, and if he
32 completed any of his measurements as observed measurements. He said that the Board discussed if
33 there was another protocol or standard that did not require observed measurements, it was still
34 acceptable. He asked the Board if the standard was an ANSI standard.

35
36 Ms. Capel stated that it was an ASTM standard.

37
38 Mr. Hartke stated that what is good for the goose is good for the gander. He said that it is much more
39 affordable to be able to do unsupervised recording of noise and that would be helpful for citizens if they
40 wanted to defend themselves in showing how noisy something is.

41
42 Ms. Capel stated that according to the ordinance all the requirements were met, and in the situation
43 where there is a problem, a noise study will be required. She said that, at this point, this was just a
44 preliminary base line study and BayWa-r.e. met the requirements of the ordinance.

45

1 Mr. Hartke stated that when the wind farm was constructed around his house in Vermilion County, it
2 was proclaimed during the process, and even after his family had issues sleeping in their home, that the
3 original application had a statement indicating that the existing noise near his house was higher than the
4 maximum ICPB noise limit.

5
6 Ms. Capel informed Mr. Hartke that this is not a hearing about a wind farm.

7
8 Mr. Hartke stated no, this is not a wind farm, but the preliminary noise study indicated a measurement of
9 70 dBA and that is not a reasonable ambient noise level at pre-construction. He said that the noise study
10 was done during harvest, which is a short duration activity that does not qualify as a standard for
11 ambient noise level. He said that with the noise study and proclaiming that the ambient noise is already
12 very high, it sets the goal post at a different location than what is proper.

13
14 Mr. Hall asked if the goal post is still the IPCB standard for noise to Class A land from Class C.

15
16 Mr. Hartke stated yes, so if we are going hang our hats on the IPCB standard, then why can't we follow
17 the observed measurement, because he wants to know where the 70 dBA came from.

18
19 Mr. Hall stated that we are not hanging our hat on the IPCB standard, but on 39 dBA, which is far below
20 IPCB.

21
22 Mr. Hartke stated that for the record, he does not believe that the preliminary noise study was done
23 properly and was not done per any IPCB protocol or noise measurement basics. He asked if since the
24 decommissioning procedure would occur with the ELUC and would not be done before this Board,
25 could an independent review be done of the decommissioning plan to test some of the trucking fees and
26 other expenses that are detailed, and would testimony be under sworn oath, and would questions and
27 cross-examination of the preparer of the decommissioning plan be allowed from the public.

28
29 Mr. Hall stated that ELUC meetings are not public hearings but are public meetings, and no one is sworn
30 under a public oath. He said that the only time that he ever asked the County Board for funding to hire
31 consultants to review a project like this, he was denied. He said that when staff has a project like this,
32 they do their best to gain information and data from other studies and that would be shared with the
33 Committee, and people in attendance are invited to participate in the discussion, not just at the beginning
34 but when the item is opened on the agenda. He said that Mr. Hartke will find that providing comments
35 at an ELUC meeting is easier than at a ZBA meeting, but ELUC is not a public hearing.

36
37 Mr. Hartke asked if, at the ELUC meeting, could the public provide comments or criticism regarding the
38 decommissioning plan. He said that to level the playing field, he believes that the public should have the
39 opportunity to ask questions, under oath, of the person who is presenting the decommissioning plan to
40 ELUC. He said that the public should be able to ask the person if the panels will be taken to a landfill,
41 or how was the trucking expense calculated, and if those questions are avoided or put to the side, ELUC
42 would not have any answers when it comes time to pay for the cleanup of the project. He said that
43 getting answers to important questions should be placed on record. He said that the public should be
44 able to voice their concerns and pose their questions, rather than being told something that doesn't really
45 get to the meat and bones of what they are looking for to protect themselves from having a big

1 decommissioning bill at the end. He said that even the landowners may have questions that deserve
2 answers during cross-examination while the petitioner, or whomever, is under oath.

3
4 Mr. Hall stated that he has tried to make it very clear that ELUC meetings are not under oath, and there
5 is no way to do it. He said that the ELUC meeting consists of seven County Board members, and he is
6 not sure how many ELUC meetings Mr. Hartke has attended, but ELUC members work almost as
7 diligently as the ZBA, although under a different format. He said that the last thing that the ELUC
8 members wants to be on the hook for is to clean up a defunct solar farm.

9
10 Mr. Hartke stated that perhaps some decommissioning plan discussion should occur during the ZBA
11 meeting so that those questions and concerns from the public could be addressed. He said that the ZBA
12 works under a great system and it has worked very well, except for the times when he has been told that
13 his questions could not be answered because testimony was not received regarding his question. He said
14 personally, he does not believe that the solar panels will leak so much that they would have a measurable
15 contamination, but he does believe that the time to measure and look for that should be during the 10 or
16 15-year mark instead of the end of the project. He said that these tests could be as simple as taking
17 samples along the outlet of the drain tiles which drain the solar farm before 20-years goes by.

18
19 Ms. Capel asked the Board and staff if there were questions for Mr. Hartke, and there were none.

20
21 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Hartke, and there was no one.

22
23 Ms. Capel called William McKee to testify.

24
25 Mr. William McKee, who resides at 2254 CR 1000N, Sidney, stated that he is not in favor of this entire
26 mess, because his residence is in the middle of the entire thing. He said that his property is a whole 367
27 feet from the solar panels, and he believes that there should be at least 1,000 feet entirely around his
28 property. He said that he measured 204 feet from the edge of the field on the other side of the railroad
29 track to his property line, not 367 feet.

30
31 Ms. Capel stated that the measurement of 367 feet was to the nearest panel.

32
33 Mr. McKee asked the Board if they would like to live 367 feet from the solar panels, because he does
34 not, and they are closer than that on the other side of his property.

35
36 Ms. Capel noted that the solar farm on the other side of Mr. McKee's property is a different solar farm.

37
38 Mr. McKee stated that he did not care whether it was a different solar farm or not, and his question
39 regarding the location of the driveway for the other solar farm was never answered. He said that he was
40 told that the driveway was going to be moved west, but never where west.

41
42 Mr. Hall stated that the driveway for the other solar farm was proposed to be at least 240 feet from Mr.
43 McKee's property.

44
45 Mr. McKee stated that the driveway is still on the curve of the highway.

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Mr. Hall noted that the County Engineer approved the proposed entrance.

Mr. McKee stated that evidently the County Engineer doesn't know what he is doing either. He said that he has counted trucks traveling that highway at the rate of over one truck every 10 minutes.

Ms. Capel informed Mr. McKee that his testimony is not relevant to this particular solar farm.

Mr. McKee stated that excuse is what everyone has been told.

Ms. Capel informed Mr. McKee that the Board is consistent in only accepting testimony regarding the particular case before them, and not others.

Mr. McKee repeated that his property line is 240 feet from the edge of the field on the other side of the rail road track to his property line. He said that the property line that he pays taxes for goes to the middle of the road, not his front porch, and the 40 feet graveled driveway was proposed to be placed 27 feet from his house. He said that anyone can research on the computer and see that China is having a lot of issues with the solar panels and they do not know what to do with the ones that are leftover due to contamination. He asked if any regular inspections would be conducted on the solar panels involved in these solar farms ensuring that they don't leak into his water well. He said that special condition K. on page seven of Supplemental Memorandum 5, states that the petitioner will consult with all landowners and residents (both participating and non-participating in the solar farm project) whose residences are within 1,000 feet of the solar farm regarding the types of plantings to be used in the required vegetative screening to be planted along the nearest solar farm fence line to the residence. He said that he has not heard anything from anyone, and the only information that he receives is when he attends these meetings, and this was going on for one year before he knew what was going on. He said that there are four people who are sitting in the middle of the previous solar farm that was recommended for approval, but there is a lot of land available that isn't near a residence, so why wouldn't they locate these solar farms in those locations. He said that the solar farm can be located 367 feet from the Board member's homes if they so desire, but it should be at least 1,000 feet from his house.

Ms. Capel asked the Board and staff if there were any questions for Mr. McKee, and there were none.

Ms. Capel asked the audience if anyone desired to cross-examine Mr. McKee, and there was no one.

Ms. Capel called Chuck White to testify.

Mr. Chuck White, who resides at 309 South Bryan, Sidney, stated that he had one quick question, which he requested an answer for at the previous hearing, and it is as follows: How much electricity would be kept local?

Ms. Capel apologized to Mr. White for not obtaining an answer to his previous question, but she would request an answer tonight.

Ms. Capel asked the Board and staff if there were any questions for Mr. White, and there were none.

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Ms. Capel asked the audience if anyone desired to cross-examine Mr. White, and there was no one.

Ms. Capel called Patrick Fitzgerald to the testimony micro-phone so that he could address Mr. White's questions.

Mr. Patrick Fitzgerald, attorney for the petitioner, whose address is 306 West Church Street, Champaign, stated that at this point it is unknown as to how much electricity would be sold locally, and in a perfect world they would like to sell all the power locally. He said that they would reach out to local users, but at this point the answer to Mr. White's question is unknown.

Ms. Capel asked the Board if there were any questions for Mr. Fitzgerald.

Mr. Elwell stated that, as he recalls from previous testimony, this solar farm is not going to be a residential type demographic, but industrial.

Mr. Fitzgerald stated yes. He said that it is not designed for single family homes, but for the University of Illinois, Carle Clinic and hospital, Christie Clinic, consumers of a larger scale would be ideal clients, and the petitioners would appreciate any help that people in the community could give that might entice those users of electricity to purchase from the development.

Mr. Elwell asked Mr. Fitzgerald if Champaign-Urbana was large enough to command half of the electricity generated from this facility. He asked if the residential and industrial demographic of Champaign-Urbana indicated interest, would they be large enough to use one-half or all the megawatts produced by this solar farm.

Mr. Fitzgerald stated that, at best, he would only be speculating the answer to Mr. Elwell's question.

Ms. Lee asked Mr. Fitzgerald if the transmission lines would have the characteristic that if you park your truck or implement underneath them you would receive a shock. She said that there are current transmission lines in Champaign County which do have that shock characteristic.

Mr. Fitzgerald stated that he does not have the expertise to answer Ms. Lee's question, other than the proposed development would comply with any applicable rules, regulations, laws or ordinances, and to the extent that a shock characteristic is a known problem in the county that the County Board chooses to address, they would welcome the opportunity to comply with any regulations that the County Board would issue.

Ms. Capel asked the Board and staff if there were any additional questions for Mr. Fitzgerald, and there were none.

Ms. Capel informed the audience that Mr. Fitzgerald is an attorney; therefore, no cross-examination is allowed.

Ms. Capel asked the audience if anyone else desired to sign the witness register and present testimony regarding this case, and there was no one.

1
2 Ms. Capel closed the witness register.
3
4 Mr. DiNovo stated that he did have a question for Mr. Brown.
5
6 Ms. Capel stated that Mr. Brown did not sign the witness register. She asked Mr. DiNovo if he would
7 like to present his question to Mr. Fitzgerald.
8
9 Mr. DiNovo stated that he would like to present his question to Mr. Brown.
10
11 Mr. Fitzgerald stated that the petitioner has presented their application, presented their case, been
12 subjected to cross-examination, and the witness register has been closed, and his concern is where this
13 process stops, and when is there a vote on the issue at hand. He said that if the petitioner is required to
14 respond to questions after they have presented their case, they are then subject to cross-examination, and
15 then that cross-examination would move to additional questions.
16
17 Ms. Capel stated that Mr. DiNovo could present his questions to Mr. Fitzgerald and he can confer with
18 his clients, and then present an answer.
19
20 Mr. DiNovo asked what capacity factor or equivalent BayWa-r.e. used in its economic analysis of the
21 feasibility of the project. He said that he was curious as to what expected value would be of the
22 electricity being produced by this project, and the only way to actually calculate that is to know its actual
23 output and to calculate the output you must know the capacity factor. ‘
24
25 Mr. Hall asked Mr. DiNovo if that impacted the assessed value.
26
27 Mr. DiNovo stated no, but at the previous hearing, the Board was provided public testimony regarding
28 the lost value of agricultural production. He said that since there is a concern regarding the lost value of
29 agricultural production on the subject property, he wanted to know the value of the electricity that the
30 PV Solar Farm would be producing, but to address the public’s concern, the petitioner must indicate the
31 amount of electricity being produced. He asked why the Board does not have a road upgrade and
32 maintenance agreement, because testimony was received regarding the factors that would go into the
33 agreement. He requested the current status of discussions with the County Engineer.
34
35 Mr. Fitzgerald stated that his clients are actively working on a roadway agreement and they fully
36 appreciate that per the waiver, the road upgrade and maintenance agreement would not be reviewed by
37 the ZBA, but at ELUC.
38
39 Mr. DiNovo stated that he understands why the decommissioning agreement is delayed until all the final
40 engineering is completed indicating what the final construction would be, what panels are being
41 installed, etc. He asked if the same concerns apply to the roadway agreement.
42
43 Mr. Fitzgerald stated, with all due respect, part of the question is the amount of staff time that the
44 County Engineer wants to devote to the roadway agreement prior to approval of the requested special use
45 permit. Mr. Fitzgerald stated that the process that the special use permit has gone through establishes a

1 base line document that the County Engineer is generally comfortable with, and the petitioner is waiting
2 to fill in the specifics once the special use permit proceeds past the ZBA. He said that to the extent that
3 the ZBA would recommend approval, the County Engineer and his staff would devote more time for
4 review of an actual agreement than would be reviewed by a subsequent government body, ELUC and the
5 County Board.

6
7 Ms. Capel asked the Board if there were additional questions for Mr. Fitzgerald or the petitioner, and
8 there were none.

9
10 Ms. Capel asked the audience if anyone else desired to sign the witness register and present testimony
11 regarding this case, and there was no one.

12
13 Ms. Capel closed the witness register.

14
15 Ms. Capel asked the Board if they were ready to move to the Findings of Fact, and the Board agreed.

16
17 Mr. DiNovo requested a short recess.

18
19 **The Board recessed at 7:43 p.m.**

20 **The Board resumed at 7:48 p.m.**

21
22 Ms. Capel stated that, at this time, she will read the special conditions of approval and the petitioner
23 must indicate whether they agree or disagree. She noted that the special conditions that will be read are
24 included in Supplemental Memorandum #5 dated November 29, 2018.

25
26 Ms. Capel read special condition A. as follows:

27 **A. The approved site plan consists of the following documents:**

- 28 • **Sheets 1 through 9 of the Site Plan received November 13, 2018.**
- 29 • **Sheets 10 through 12 of the Site Plan received October 24, 2018.**
- 30 • **Sheet L1 Landscape Plan received November 15, 2018.**

31
32 The above special condition is required to ensure that:

33 **The constructed PV SOLAR FARM is consistent with the special use permit**
34 **approval.**

35
36 Ms. Capel asked if the petitioner agreed with special condition A.

37
38 Mr. Fitzgerald indicated that they agreed with special condition A.

39
40 Ms. Capel read special condition B. as follows:

- 41
- 42 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
- 43 **issue a Zoning Compliance Certificate on the subject property until the lighting**
- 44 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**
- 45

1 The special condition stated above is required to ensure the following:

2 **That exterior lighting for the proposed Special Use meets the requirements**
3 **established for Special Uses in the Zoning Ordinance.**

4
5 Ms. Capel asked if the petitioner agreed with special condition B.

6
7 Mr. Fitzgerald indicated that they agreed with special condition B.

8
9 Ms. Capel read special condition C. as follows:

10
11 **C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
12 **proposed PV SOLAR FARM until the petitioner has demonstrated that the**
13 **proposed Special Use complies with the Illinois Accessibility Code, if necessary.**

14
15 The special condition stated above is necessary to ensure the following:

16 **That the proposed Special Use meets applicable state requirements for**
17 **accessibility.**

18
19 Ms. Capel asked if the petitioner agreed with special condition C.

20
21 Mr. Fitzgerald indicated that they agreed with special condition C.

22
23 Ms. Capel read special condition D. as follows:

24
25
26 **D. The Zoning Administrator shall not authorize a Zoning Use Permit until the**
27 **petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement**
28 **with the Illinois Department of Agriculture per the requirements established in**
29 **Paragraph 6.1.5 R. of the Zoning Ordinance.**

30
31 The special condition stated above is required to ensure the following:

32 **That the land affected by PV SOLAR FARM is restored to its pre-**
33 **construction capabilities.**

34
35 Ms. Capel asked if the petitioner agreed with special condition D.

36
37 Mr. Fitzgerald indicated that they agreed with special condition D.

38
39 Ms. Capel read special condition E. as follows:

40
41 **E. A signed Decommissioning and Site Reclamation Plan that has been approved by**
42 **ELUC is required at the time of application for a Zoning Use Permit that complies**
43 **with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a**
44 **decommissioning cost estimate prepared by an Illinois Professional Engineer.**

1 The above special conditions are required to ensure that:

2 **The Special Use Permit complies with Ordinance requirements and as**
3 **authorized by waiver.**

4
5 Ms. Capel asked if the petitioner agreed with special condition E.

6
7 Mr. Fitzgerald indicated that they agreed with special condition E.

8
9 Ms. Capel read special condition F. as follows:

10
11 **F. Roadway Upgrade and Maintenance Agreements signed by the County Highway**
12 **Engineer, Sidney Township Highway Commissioner, and approved by the**
13 **Environment and Land Use Committee, shall be submitted at the time of application**
14 **for a Zoning Use Permit.**

15
16 The above special condition is necessary to ensure the following:
17 **To ensure full compliance with the intent of the Zoning Ordinance in a**
18 **timely manner that meets the needs of the applicant.**

19
20 Ms. Griest noted that a comma should be inserted between “County Highway Engineer” and “Sidney
21 Township Highway Commissioner” because they are two separate entities.

22
23 Ms. Capel asked if the petitioner agreed with special condition F.

24
25 Mr. Fitzgerald indicated that they agreed with special condition F.

26
27 Ms. Capel read special condition G. as follows:

- 28
- 29 **G. The following submittals are required prior to the approval of any Zoning Use**
- 30 **Permit for a PV SOLAR FARM:**
 - 31 1. **Documentation of the solar module’s unlimited 10-year warranty and the 25-**
 - 32 **year limited power warranty.**
 - 33
 - 34 2. **A Storm Water Management Plan which conforms to the Champaign County**
 - 35 **Storm Water Management and Erosion Control Ordinance.**
 - 36
 - 37 3. **Certification by an Illinois Professional Engineer that any relocation of**
 - 38 **drainage district tile conforms to the Champaign County Storm Water**
 - 39 **Management and Erosion Control Ordinance.**
 - 40
 - 41 4. **A Crossing Agreement with the relevant Drainage District(s) for any solar**
 - 42 **farm construction that intrudes on any easement or right of way for drainage**
 - 43 **district ditch or tile, per 6.1.5 E.(5).**
 - 44

- 1 5. **An irrevocable letter of credit to be drawn upon a federally insured financial**
- 2 **institution with a minimum acceptable long term corporate debt (credit**
- 3 **rating of the proposed financial institution shall be a rating of “A” by S&P**
- 4 **or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable**
- 5 **anticipated travel costs shall be added to the amount of the letter of credit.**
- 6
- 7 6. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM**
- 8 **including any access road that conforms to the relevant Natural Resources**
- 9 **Conservation Service guidelines and that is prepared by an Illinois Licensed**
- 10 **Professional Engineer.**
- 11
- 12 7. **Documentation regarding the seed to be used for the vegetative ground cover**
- 13 **planting, per 6.1.5 F.(9).**
- 14
- 15 8. **A Transportation Impact Analysis provided by the applicant that is mutually**
- 16 **acceptable to the Applicant and the County Engineer and State’s Attorney;**
- 17 **or Township Highway Commissioner; or municipality where relevant, as**
- 18 **required by 6.1.5 G. 2.**
- 19
- 20 9. **The telephone number for the complaint hotline required by 6.1.5 S.**
- 21
- 22 10. **Any updates to the approved Site Plan from Case 898-S-18 per the Site Plan**
- 23 **requirements provided in Section 6.1.5 U.1.c.**
- 24

The above special condition is required to ensure that:

The PV SOLAR FARM is constructed consistent with the Special Use Permit approval and in compliance with the Ordinance requirements.

Ms. Capel asked if the petitioner agreed with special condition G.

Mr. Fitzgerald indicated that they agreed with special condition G.

Ms. Capel read special condition H. as follows:

H. The petitioner shall install sound reduction kits from the inverter manufacturer to each of the inverters in the solar farm so that operational sound levels for the duration of the solar farm will be less than 39 dBA at all existing residential lots within 1,500 feet of the project site and 39 dBA shall be the sound level that shall be enforced by Champaign County subject to the relevant standards of the Illinois Pollution Control Board and Illinois Environmental Protection Agency.

The above special condition is required to ensure that:

The PV SOLAR FARM is constructed consistent with the Special Use Permit approval.

1 Ms. Capel asked if the petitioner agreed with special condition H.

2

3 Mr. Fitzgerald indicated that they agreed with special condition H.

4

5 Ms. Capel read special condition I. as follows:

6

7 **I. A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior**
8 **to going into commercial production of energy. Approval of a Zoning Compliance**
9 **Certificate shall require the following:**

- 10 1. **An as-built site plan of the PV SOLAR FARM including structures, property**
11 **lines (including identification of adjoining properties), as-built separations,**
12 **public access road and turnout locations, substation(s), electrical cabling**
13 **from the PV SOLAR FARM to the substations(s), and layout of all structures**
14 **within the geographical boundaries of any applicable setback.**
- 15
- 16 2. **As-built documentation of all permanent soil erosion and sedimentation**
17 **improvements for all PV SOLAR FARM including any access road prepared**
18 **by an Illinois Licensed Professional Engineer.**
- 19
- 20 3. **A noise study to verify that the required sound reduction kits for all inverters**
21 **result in less than 39 dBA noise level at all existing residential lots within**
22 **1,500 feet of the project site.**
- 23
- 24 4. **An executed interconnection agreement with the appropriate electric utility**
25 **as required by Section 6.1.5 B.(3)b.**

26
27 The above special condition is required to ensure that:

28 **The PV SOLAR FARM is constructed consistent with the special use permit**
29 **approval and in compliance with the Ordinance requirements.**

30

31 Ms. Capel asked if the petitioner agreed with special condition I.

32

33 Mr. Fitzgerald indicated that they agreed with special condition I.

34

35 Ms. Capel read special condition J. as follows:

36

37 **J. The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with**
38 **the following specific requirements that apply even after the PV SOLAR FARM**
39 **goes into commercial operation:**

- 40 1. **Maintain the required visual screening for the perpetuity of the Special Use**
41 **Permit.**
- 42
- 43 2. **Cooperate with local Fire Protection District to develop the District's**
44 **emergency response plan as required by 6.1.5 H.(2).**

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- 3. **Cooperate fully with Champaign County and in resolving any noise complaints including reimbursing Champaign County any costs for the services of a qualified noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations as required by 6.1.5 I.(4).**
- 4. **Maintain a current general liability policy as required by 6.1.5 O.**
- 5. **Submit annual summary of operation and maintenance reports to the Environment and Land Use Committee as required by 6.1.5 P.(1)a.**
- 6. **Maintain compliance with the approved Decommissioning and Site Reclamation Plan including financial assurances.**
- 7. **Submit to the Zoning Administrator copies of all complaints to the telephone hotline on a monthly basis and take all necessary actions to resolve all legitimate complaints as required by 6.1.5 S.**

The above special condition is required to ensure that:

Future requirements are clearly identified for all successors of title, lessees, any operator and/or owner of the PV SOLAR FARM.

Ms. Capel asked if the petitioner agreed with special condition J.

Mr. Fitzgerald indicated that they agreed with special condition J.

Ms. Capel read special condition K. as follows:

K. The petitioner will consult with all land owners and residents (both participating and non-participating in the solar farm project) whose residences are within 1,000 feet of the solar farm regarding the types of plantings to be used in the required vegetative screening to be planted along the nearest solar farm fence line to the residence to minimize harm to existing residential landscaping and the Environment and Land Use Committee shall approve the proposed screening prior to the approval of the Zoning Use Permit.

The above special condition is required to ensure that:

Plantings to be used in the vegetative screening will not be harmful to existing vegetation in the area.

Ms. Capel asked if the petitioner agreed with special condition K.

Mr. Fitzgerald indicated that they agreed with special condition K.

Ms. Capel read special condition L. as follows:

1 **L. Within the boundary of the solar farm, the petitioner shall replace the main tile for**
 2 **the Drainage District Number 1 of the Town of Sidney and no Zoning Compliance**
 3 **Certificate shall be authorized by the Zoning Administrator until written**
 4 **acceptance of the replaced main tile has been received from the Drainage District**
 5 **Number 1 of the Town of Sidney and all required “as-built” drawings showing the**
 6 **location of the main drainage tile within the boundary of the solar farm have been**
 7 **filed with the Illinois Department of Agriculture and the Champaign County Soil**
 8 **and Water Conservation District.**

9
 10 The special condition above is required to ensure the following:
 11 **To ensure conformance with the freely made obligation to replace the main**
 12 **tile of the Drainage District Number 1 of the Town of Sidney.**

13
 14 Ms. Lee stated that there were two drainage districts involved in this project and both should be included
 15 in this special condition.

16
 17 Mr. Hall stated that there are two drainage districts involved, but only replacement of the main drainage
 18 tile is proposed in the Drainage District Number 1 of the Town of Sidney.

19
 20 Ms. Capel asked if the petitioner agreed with special condition L.

21
 22 Mr. Fitzgerald indicated that they agreed with special condition L.

23
 24 Ms. Capel read special condition M. as follows:

25
 26 **M. Within the boundary of the solar farm, the petitioner shall replace all privately**
 27 **owned underground drainage tile that are identified and encountered, consistent**
 28 **with the “like kind” replacement proposed in the cover letter from Huddleston**
 29 **McBride Land Drainage of Rochelle, Illinois, that was received October 24, 2018,**
 30 **and with the petitioner’s testimony regarding pattern tiling and consistent with both**
 31 **the Champaign County Storm Water Management and Erosion Control Ordinance**
 32 **and with the Agriculture Impact Mitigation Agreement and no Zoning Compliance**
 33 **Certificate shall be authorized by the Zoning Administrator until all required “as-**
 34 **built” drawings showing the location of all drainage tile within the boundary of the**
 35 **solar farm have been filed with the Illinois Department of Agriculture and the**
 36 **Champaign County Soil and Water Conservation District.**

37
 38 The special condition above is required to ensure the following:
 39 **To ensure conformance with all relevant requirements for replacement of**
 40 **underground drainage tile within the area of the special use permit.**

41
 42 Ms. Capel asked if the petitioner agreed with special condition M.

43
 44 Mr. Fitzgerald indicated that they agreed with special condition M.

45

1 Ms. Capel read special condition N. as follows:

2
3 **N. The petitioner shall maintain the privately owned underground drainage tiles**
4 **within the boundary of the solar farm for the lifetime of the special use permit**
5 **including any repairs that may be necessary for up to one year after**
6 **decommissioning and site reclamation.**
7

8 The special condition above is required to ensure the following:

9 **To ensure maintenance of underground drainage tile within the area of the**
10 **special use permit for the lifetime of the special use permit.**
11

12 Ms. Capel asked if the petitioner agreed with special condition N.

13
14 Mr. Fitzgerald indicated that they agreed with special condition N.

15
16 Ms. Capel entertained a motion to approve the special conditions as read.

17
18 **Ms. Griest moved, seconded by Mr. Elwell, to approve the special conditions as read. The motion**
19 **carried by voice vote, with one opposing vote.**
20

21
22 Mr. DiNovo stated that Section 6.1.5.Q.(5) lists conditions under which the Zoning Administrator can
23 withdraw from the performance guarantee. He said that subparagraph 6.1.5.Q.(5) f. states: The PV
24 SOLAR FARM is in violation of the terms of the PV SOLAR FARM SPECIAL USE permit for a period
25 exceeding ninety (90) days. He asked Mr. Hall if there was a noise issue, would the funds in the
26 financial guarantee be available to correct it per subparagraph f.
27

28 Mr. Hall stated that by the time there was a violation, a noise consultant would have been hired and
29 under the terms of the ordinance, those costs are paid back by the petitioner, but the initial costs could be
30 paid from funds withdrawn from the performance guarantee.
31

32 Ms. Capel asked if there were any new Documents of Record.

33
34 Mr. Hall stated that the following items should be added to the Documents of Record: item 16:
35 Supplemental Memorandum #3 dated November 15, 2018, with attachments; item 17: Property Tax
36 Valuation established by Frank DiNovo and distributed at the November 15, 2018 public hearing; item
37 18: Supplemental Memorandum #4 dated November 21, 2018, with attachments; item 19: Letter from
38 Patrick Fitzgerald dated November 21, 2018; and item 20: Supplemental Memorandum #5 dated
39 November 29, 2018, with attachments.
40

41 Mr. DiNovo asked if the material that he distributed should be added to the Summary of Evidence.

42
43 Mr. Hall stated yes.
44

45 **Mr. DiNovo moved, seconded by Mr. Elwell, to include evidence presented in the materials**

1 distributed to the Board by Mr. DiNovo, into the Summary of Evidence.

2
3 Ms. Lee stated that this evidence is already listed on page 8 of Supplemental Memorandum 5, under
4 attachments.

5
6 Ms. Capel stated that the document has been included as a Document of Record, but the information
7 within the document has not been added to the Summary of Evidence.

8
9 **The motion carried by voice vote.**

10
11 **Findings of Fact for Case 898-S-18:**

12
13 **From the documents of record and the testimony and exhibits received at the public hearing for**
14 **zoning case 898-S-18 held on November 1, 2018, November 15, 2018, and November 29, 2018, the**
15 **Zoning Board of Appeals of Champaign County finds that:**

16
17 Ms. Griest asked if the Board should review the waivers first.

18
19 Mr. Hall stated that the Board generally reviews the waivers prior to finding 3, affirming that the use
20 conforms to the regulations and standards, thus the waivers must be reviewed prior to making that
21 finding. He said that findings 1 and 2 are not relevant to the waivers. He said that the Board can do this
22 any way that works.

23
24 Mr. DiNovo stated that he would prefer reviewing the waivers first, beginning with finding 6.

25
26 Ms. Capel moved to finding 6.

27
28 **6. Regarding necessary waivers of standard conditions:**

29
30 **A. Regarding Part A of the proposed waivers, for a distance of 1,175 feet in lieu of one-**
31 **half mile (2,640 feet) between a PV SOLAR FARM and the CR Conservation**
32 **Recreation zoning district:**

- 33 **(1) The waiver IS in accordance with the general purpose and intent of the**
34 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or to**
35 **the public health, safety, and welfare.**

36
37 Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning
38 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare
39 because the subject property is separated from the CR district by the railroad and the highway, and there
40 is also a grain elevator and a seed processing plant in between; and there is no evidence that
41 pointed to any significant negative impact on the CR district.

- 42
43 **(2) Special conditions and circumstances DO exist which are peculiar to the land**
44 **or structure involved, which are not applicable to other similarly situated**
45 **land and structures elsewhere in the same district.**

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Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because the site requires proximity to a substation, of which there are only two of this type in the county and the one in this area is only ¼ mile from the CR district, making it difficult to locate the facility in conformance to the regulations.

- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.**

Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because the site otherwise meets all other physical requirements of the ordinance, and an alternative layout would require a less compact and less efficient layout of the solar farm.

- (4) The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.**

Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the comparable sites are extremely limited, with there being only one other one in the entire county.

- (5) The requested waiver IS the minimum variation that will make possible the reasonable use of the land/structure.**

Mr. DiNovo stated that the requested waiver IS the minimum variation that will make possible the reasonable use of the land/structure because alternative layouts either would move the facility closer to the Village of Sidney or result in a less efficient layout.

B. Regarding Part B of the proposed waivers, for not providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board:

- (1) The waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.**

Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare because the waiver allows for the development of a more detailed final engineering plan which will provide a more accurate basis for determining decommissioning costs.

- (2) Special conditions and circumstances DO exist which are peculiar to the land**

or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.

Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because of the magnitude of this project, it is even more important that the decommissioning plan be based on the best possible engineering and information.

(3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.

Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because any decommissioning plan presented now would very likely have to be revised in order to have the required certainty.

(4) The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.

Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the project was in the works well before we amended the Zoning Ordinance to include this requirement.

(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure.

Mr. DiNovo stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure because it ties the submission of this plan to the next approval point in the process, which is ELUC approval.

C. Regarding Part C of the proposed waivers, for not entering into a Roadway Upgrade and Maintenance Agreement or waiver therefrom with the relevant local highway authority prior to consideration of the Special Use Permit by the Board:

(1) The waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.

Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare because the Agreement will have to be in place, and is subject to ELUC approval prior to the issuance of any Zoning Use Permit.

(2) Special conditions and circumstances DO exist which are peculiar to the land

1 or structure involved, which are not applicable to other similarly situated
2 land and structures elsewhere in the same district.
3

4 Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or
5 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
6 the same district because of the magnitude of the project, this kind of commitment requires resources
7 of both parties, such that it serves the interests of the petitioner and the county to not invest those
8 resources until some preliminary level of approval has been obtained.
9

10 (3) Practical difficulties or hardships created by carrying out the strict letter of
11 the regulations sought to be varied WILL prevent reasonable or otherwise
12 permitted use of the land or structure or construction.
13

14 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the
15 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
16 structure or construction because subject to Waiver A, the project meets all physical requirements of the
17 Zoning Ordinance, and the County Highway Department would have to commit additional
18 resources without knowing whether this would be a viable project.
19

20 (4) The special conditions, circumstances, hardships, or practical difficulties DO
21 NOT result from actions of the applicant.
22

23 Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO
24 NOT result from actions of the applicant because the timing has been established in consultation with
25 the County Highway Department.
26

27 (5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL
28 CONDITION, IS the minimum variation that will make possible the
29 reasonable use of the land/structure.
30

31 Mr. DiNovo stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION,
32 IS the minimum variation that will make possible the reasonable use of the land/structure because it is
33 tied to the next decision point in the process, which is ELUC approval.
34

35 Ms. Capel stated that the Board did not vote on each of the waivers, but she does believe that the Board
36 should conduct a voice vote on each of the findings.
37

38 1. The requested Special Use Permit IS necessary for the public convenience at this location.
39

40 Mr. DiNovo stated that the requested Special Use Permit IS necessary for the public convenience at this
41 location because it helps achieve the purposes of the State of Illinois Renewable Energy Portfolio
42 requirements and the Champaign County Land Resource Management Plan. He said that it is important
43 for this use to have close proximity to a substation with adequate capacity, and the Sidney substation is
44 one of only two in the county. He said that this site was selected only after considering 20 other
45 potential sites, and the project will make significant contributions to the tax base of county, school

1 districts, and other taxing bodies while imposing no new public service demands.

2
3 Ms. Lee asked if evidence was presented regarding 20 other potential sites.

4
5 Mr. DiNovo stated that Mr. Brown presented that testimony.

6
7 **Mr. Elwell moved, seconded by Mr. Randol, that the requested Special Use Permit IS necessary**
8 **for the public convenience at this location. The motion carried by voice vote, with one opposing**
9 **vote.**

10
11 **2. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
12 **IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL**
13 **NOT be injurious to the district in which it shall be located or otherwise detrimental to the**
14 **public health, safety, and welfare because:**

15 **a. The street has ADEQUATE traffic capacity and the entrance location has**
16 **ADEQUATE visibility.**

17
18 Mr. Elwell stated that the street has ADEQUATE traffic capacity and the entrance location has
19 ADEQUATE visibility.

20
21 **b. Emergency services availability is ADEQUATE.**

22
23 Mr. Elwell stated that emergency services availability is ADEQUATE.

24
25 **c. The Special Use WILL be compatible with adjacent uses.**

26
27 Mr. Elwell stated that the Special Use WILL be compatible with adjacent uses.

28
29 **d. Surface and subsurface drainage will be ADEQUATE.**

30
31 Mr. Elwell stated that surface and subsurface drainage will be ADEQUATE because the petitioner has
32 agreed to upgrade the tile in the PV solar farm project area.

33
34 **e. Public safety will be ADEQUATE.**

35
36 Mr. Elwell stated that public safety will be ADEQUATE.

37
38 **f. The provisions for parking will be ADEQUATE.**

39
40 Mr. Elwell stated that the provisions for parking will be ADEQUATE.

41
42 **g. The property IS WELL SUITED OVERALL for the proposed improvements.**

43
44 Mr. Elwell stated that the property IS WELL SUITED OVERALL for the proposed improvements.

1 **h. Existing public services ARE available to support the proposed SPECIAL USE**
 2 **without undue public expense.**

3
 4 Mr. Elwell stated that existing public services ARE available to support the proposed SPECIAL USE
 5 without undue public expense.

6
 7 **i. Existing public infrastructure together with the proposed development IS adequate**
 8 **to support the proposed development effectively and safely without undue public**
 9 **expense.**

10
 11 Mr. Elwell stated that existing public infrastructure together with the proposed development IS adequate
 12 to support the proposed development effectively and safely without undue public expense.

13
 14 **Mr. Elwell moved, seconded by Ms. Griest that the requested Special Use Permit, SUBJECT TO**
 15 **THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be**
 16 **operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise**
 17 **detrimental to the public health, safety, and welfare. The motion carried by voice vote, with one**
 18 **opposing vote.**

19
 20 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
 21 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**
 22 **DISTRICT in which it is located.**

23
 24 Mr. DiNovo stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
 25 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in
 26 which it is located because, with the exception of waiver A, it meets all the physical requirements of the
 27 Zoning Ordinance.

28
 29 **Mr. Elwell moved, seconded by Ms. Griest, that the requested Special Use Permit, SUBJECT TO**
 30 **THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES conform to the applicable regulations**
 31 **and standards of the DISTRICT in which it is located. The motion carried by voice vote, with one**
 32 **opposing vote.**

33
 34 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
 35 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it**
 36 **is located because:**

37 **a. The Special Use will be designed to CONFORM to all relevant County ordinances**
 38 **and codes.**

39
 40 Mr. Elwell stated that the Special Use will be designed to CONFORM to all relevant County ordinances
 41 and codes.

42
 43 **b. The Special Use WILL be compatible with adjacent uses.**

44
 45 Mr. Elwell stated that the Special Use WILL be compatible with adjacent uses.

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c. Public safety will be ADEQUATE.

Mr. Elwell stated that public safety will be ADEQUATE.

Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

Mr. Elwell moved, seconded by Ms. Griest, that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located. The motion carried by voice vote, with one opposing vote.

4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance because:

- a. The Special Use is authorized in the District.**
- b. The requested Special Use Permit IS necessary for the public convenience at this location.**

Mr. Elwell stated that the requested Special Use Permit IS necessary for the public convenience at this location.

c. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare

Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

Ms. Griest stated that with the exception of waiver A, it is in full compliance with all requirements of the Zoning Ordinance.

Mr. DiNovo stated that the projected noise levels are below 39 dBA and well below the IPCB standards.

Mr. Hall stated that it is in full compliance with all physical requirements of the Zoning Ordinance.

Ms. Griest agreed with Mr. Hall, and added that overall drainage in the district and the specific parcels is being substantially improved.

d. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

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Ms. Capel stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

Ms. Griest agreed with Ms. Capel, but stated that she struggles with this finding because the Special Use Permit is in full compliance with the Illinois regulations regarding clean energy and job creation. She said that it is more of an emotional struggle for her as far as the essential character being an aesthetic issue, but it does comply.

Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.

Mr. Elwell moved, seconded by Ms. Griest, that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance. The motion carried by voice vote, with two opposing votes.

5. The requested Special Use IS NOT an existing nonconforming use.

The requested Special Use IS NOT an existing nonconforming use.

6. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:

- A. The approved site plan consists of the following documents:**
 - **Sheets 1 through 9 of the Site Plan received November 13, 2018.**
 - **Sheets 10 through 12 of the Site Plan received October 24, 2018.**
 - **Sheet L1 Landscape Plan received November 15, 2018.**

The above special condition is required to ensure that:
The constructed PV SOLAR FARM is consistent with the special use permit approval.

- B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

The special condition stated above is required to ensure the following:
That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

- C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed PV SOLAR FARM until the petitioner has demonstrated that the**

proposed Special Use complies with the Illinois Accessibility Code, if necessary.

The special condition stated above is necessary to ensure the following:

That the proposed Special Use meets applicable state requirements for accessibility.

D. The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture per the requirements established in Paragraph 6.1.5 R. of the Zoning Ordinance.

The special condition stated above is required to ensure the following:

That the land affected by PV SOLAR FARM is restored to its pre-construction capabilities.

E. A signed Decommissioning and Site Reclamation Plan that has been approved by ELUC is required at the time of application for a Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a decommissioning cost estimate prepared by an Illinois Professional Engineer.

The above special conditions are required to ensure that:

The Special Use Permit complies with Ordinance requirements and as authorized by waiver.

F. Roadway Upgrade and Maintenance Agreements signed by the County Highway Engineer, Sidney Township Highway Commissioner, and approved by the Environment and Land Use Committee, shall be submitted at the time of application for a Zoning Use Permit.

The above special condition is necessary to ensure the following:

To ensure full compliance with the intent of the Zoning Ordinance in a timely manner that meets the needs of the applicant.

G. The following submittals are required prior to the approval of any Zoning Use Permit for a PV SOLAR FARM:

- 1. Documentation of the solar module’s unlimited 10-year warranty and the 25-year limited power warranty.**
- 2. A Storm Water Management Plan which conforms to the Champaign County Storm Water Management and Erosion Control Ordinance.**
- 3. Certification by an Illinois Professional Engineer that any relocation of drainage district tile conforms to the Champaign County Storm Water Management and Erosion Control Ordinance.**

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- 4. **A Crossing Agreement with the relevant Drainage District(s) for any solar farm construction that intrudes on any easement or right of way for drainage district ditch or tile, per 6.1.5 E.(5).**
- 5. **An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of “A” by S&P or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**
- 6. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**
- 7. **Documentation regarding the seed to be used for the vegetative ground cover planting, per 6.1.5 F.(9).**
- 8. **A Transportation Impact Analysis provided by the applicant that is mutually acceptable to the Applicant and the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, as required by 6.1.5 G. 2.**
- 9. **The telephone number for the complaint hotline required by 6.1.5 S.**
- 10. **Any updates to the approved Site Plan from Case 898-S-18 per the Site Plan requirements provided in Section 6.1.5 U.1.c.**

The above special condition is required to ensure that:
The PV SOLAR FARM is constructed consistent with the Special Use Permit approval and in compliance with the Ordinance requirements.

- H. The petitioner shall install sound reduction kits from the inverter manufacturer to each of the inverters in the solar farm so that operational sound levels for the duration of the solar farm will be less than 39 dBA at all existing residential lots within 1,500 feet of the project site and 39 dBA shall be the sound level that shall be enforced by Champaign County subject to the relevant standards of the Illinois Pollution Control Board and Illinois Environmental Protection Agency.**

The above special condition is required to ensure that:
The PV SOLAR FARM is constructed consistent with the Special Use Permit approval.

- I. A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior**

to going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:

1. An as-built site plan of the PV SOLAR FARM including structures, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the PV SOLAR FARM to the substations(s), and layout of all structures within the geographical boundaries of any applicable setback.
2. As-built documentation of all permanent soil erosion and sedimentation improvements for all PV SOLAR FARM including any access road prepared by an Illinois Licensed Professional Engineer.
3. A noise study to verify that the required sound reduction kits for all inverters result in less than 39 dBA noise level at all existing residential lots within 1500 feet of the project site.
4. An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B.(3)b.

The above special condition is required to ensure that:

The PV SOLAR FARM is constructed consistent with the special use permit approval and in compliance with the Ordinance requirements.

J. The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with the following specific requirements that apply even after the PV SOLAR FARM goes into commercial operation:

1. Maintain the required visual screening for the perpetuity of the Special Use Permit.
2. Cooperate with local Fire Protection District to develop the District’s emergency response plan as required by 6.1.5 H.(2).
3. Cooperate fully with Champaign County and in resolving any noise complaints including reimbursing Champaign County any costs for the services of a qualified noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations as required by 6.1.5 I.(4).
4. Maintain a current general liability policy as required by 6.1.5 O.
5. Submit annual summary of operation and maintenance reports to the Environment and Land Use Committee as required by 6.1.5 P.(1)a.
6. Maintain compliance with the approved Decommissioning and Site Reclamation Plan including financial assurances.

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7. **Submit to the Zoning Administrator copies of all complaints to the telephone hotline on a monthly basis and take all necessary actions to resolve all legitimate complaints as required by 6.1.5 S.**

The above special condition is required to ensure that:

Future requirements are clearly identified for all successors of title, lessees, any operator and/or owner of the PV SOLAR FARM.

K. The petitioner will consult with all land owners and residents (both participating and non-participating in the solar farm project) whose residences are within 1,000 feet of the solar farm regarding the types of plantings to be used in the required vegetative screening to be planted along the nearest solar farm fence line to the residence to minimize harm to existing residential landscaping and the Environment and Land Use Committee shall approve the proposed screening prior to the approval of the Zoning Use Permit.

The above special condition is required to ensure that:

Plantings to be used in the vegetative screening will not be harmful to existing vegetation in the area.

L. Within the boundary of the solar farm, the petitioner shall replace the main tile for the Drainage District Number 1 of the Town of Sidney and no Zoning Compliance Certificate shall be authorized by the Zoning Administrator until written acceptance of the replaced main tile has been received from the Drainage District Number 1 of the Town of Sidney and all required “as-built” drawings showing the location of the main drainage tile within the boundary of the solar farm have been filed with the Illinois Department of Agriculture and the Champaign County Soil and Water Conservation District.

The special condition above is required to ensure the following:

To ensure conformance with the freely made obligation to replace the main tile of the Drainage District Number 1 of the Town of Sidney.

M. Within the boundary of the solar farm, the petitioner shall replace all privately owned underground drainage tile that are identified and encountered, consistent with the “like kind” replacement proposed in the cover letter from Huddleston McBride Land Drainage of Rochelle, Illinois, that was received October 24, 2018, and with the petitioner’s testimony regarding pattern tiling and consistent with both the Champaign County Storm Water Management and Erosion Control Ordinance and with the Agriculture Impact Mitigation Agreement and no Zoning Compliance Certificate shall be authorized by the Zoning Administrator until all required “as-built” drawings showing the location of all drainage tile within the boundary of the solar farm have been filed with the Illinois Department of Agriculture and the Champaign County Soil and Water Conservation District.

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The special condition above is required to ensure the following:
To ensure conformance with all relevant requirements for replacement of underground drainage tile within the area of the special use permit.

N. The petitioner shall maintain the privately owned underground drainage tiles within the boundary of the solar farm for the lifetime of the special use permit including any repairs that may be necessary for up to one year after decommissioning and site reclamation.

The special condition above is required to ensure the following:
To ensure maintenance of underground drainage tile within the area of the special use permit for the lifetime of the special use permit.

Mr. DiNovo asked Mr. Hall if the Board needs to specifically approve the waivers by separate motion or include them under the adoption of the Finding of Fact.

Mr. Hall stated that normally the board would include the waivers under the adoption of the Finding of Fact.

Ms. Capel stated that the Board did not vote on the waivers individually.

Mr. Hall stated that the Board is not required to vote on the waivers individually, but they can if they so desire.

Ms. Capel stated no.

Mr. DiNovo wondered if the Final Determination could read as follows: The Special Use requested in Case 898-S-18 be GRANTED WITH SPECIAL CONDITIONS and with the specified waivers.

Mr. Hall stated that the Final Determination is already specified that way.

Ms. Griest agreed.

Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings of Fact, as amended.

Ms. Griest moved, seconded by Mr. Elwell, to adopt the Summary of Evidence, Documents of Record, and Findings of Fact, as amended. The motion carried by voice vote, with one opposing vote.

Ms. Capel entertained a motion to move to the Final Determination for Case 898-S-18.

Mr. Elwell moved, seconded by Mr. DiNovo, to move to the Final Determination for Case 898-S-18. The motion carried by voice vote.

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Ms. Griest informed the petitioner that currently the Board has one member absent; therefore, it is at the petitioners’ discretion to either continue Case 898-S-18 until a full Board is present or request that the present Board move to the Final Determination. She informed the petitioner that four affirmative votes are required for approval.

Mr. Fitzgerald asked if all Board members who are present tonight would be voting.

Ms. Capel stated that all Board members who are present tonight will be voting on Case 898-S-18.

Mr. Fitzgerald requested that the present Board move to the Final Determination for Case 898-S-18.

FINAL DETERMINATION FOR CASE 898-S-18:

Mr. DiNovo moved, seconded by Mr. Elwell, that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval of Section 9.1.11B. HAVE been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, recommends that:

The Special Use requested in Case 898-S-18 be GRANTED WITH SPECIAL CONDITIONS to the applicant, BayWa r.e. Solar Projects LLC, to authorize the following as a Special Use on land in the AG-1 and AG-2 Agriculture Zoning districts:

Authorize a Utility-scale PV Solar Farm with a total nameplate capacity of 150 megawatts (MW), including access roads and wiring, and

SUBJECT TO THE FOLLOWING WAIVERS OF STANDARD CONDITIONS:

Part A: A waiver for a distance of 1,175 feet in lieu of one-half mile (2,640 feet) between a PV SOLAR FARM, and the CR Conservation Recreation Zoning District in lieu of the minimum required one-half mile (2,640 feet), per Section 6.1.5 B.(2)b. of the Zoning Ordinance.

Part B: A waiver for not providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3.

Part C: A waiver for not entering into a Roadway Upgrade and Maintenance Agreement or waiver therefrom with the relevant local highway authority prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 G.

1 SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:
2

- 3 A. The approved site plan consists of the following documents:
- 4 • Sheets 1 through 9 of the Site Plan received November 13, 2018.
 - 5 • Sheets 10 through 12 of the Site Plan received October 24, 2018.
 - 6 • Sheet L1 Landscape Plan received November 15, 2018.
- 7
- 8 B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or
9 issue a Zoning Compliance Certificate on the subject property until the lighting
10 specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.
- 11
- 12 C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the
13 proposed PV SOLAR FARM until the petitioner has demonstrated that the
14 proposed Special Use complies with the Illinois Accessibility Code, if necessary.
- 15
- 16 D. The Zoning Administrator shall not authorize a Zoning Use Permit until the
17 petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement
18 with the Illinois Department of Agriculture per the requirements established in
19 Paragraph 6.1.5 R. of the Zoning Ordinance.
- 20
- 21 E. A signed Decommissioning and Site Reclamation Plan that has been approved by
22 ELUC is required at the time of application for a Zoning Use Permit that complies
23 with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a
24 decommissioning cost estimate prepared by an Illinois Professional Engineer.
- 25
- 26 F. Roadway Upgrade and Maintenance Agreements signed by the County Highway
27 Engineer, Sidney Township Highway Commissioner, and approved by the
28 Environment and Land Use Committee, shall be submitted at the time of application
29 for a Zoning Use Permit.
- 30
- 31 G. The following submittals are required prior to the approval of any Zoning Use
32 Permit for a PV SOLAR FARM:
- 33 1. Documentation of the solar module's unlimited 10-year warranty and the 25-
34 year limited power warranty.
 - 35
 - 36 2. A Storm Water Management Plan which conforms to the Champaign County
37 Storm Water Management and Erosion Control Ordinance.
 - 38
 - 39 3. Certification by an Illinois Professional Engineer that any relocation of
40 drainage district tile conforms to the Champaign County Storm Water
41 Management and Erosion Control Ordinance.
 - 42
 - 43 4. A Crossing Agreement with the relevant Drainage District(s) for any solar
44 farm construction that intrudes on any easement or right of way for drainage
45 district ditch or tile, per 6.1.5 E.(5).

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5. **An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of “A” by S&P or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**
 6. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**
 7. **Documentation regarding the seed to be used for the vegetative ground cover planting, per 6.1.5 F.(9).**
 8. **A Transportation Impact Analysis provided by the applicant that is mutually acceptable to the Applicant and the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, as required by 6.1.5 G. 2.**
 9. **The telephone number for the complaint hotline required by 6.1.5 S.**
 10. **Any updates to the approved Site Plan from Case 898-S-18 per the Site Plan requirements provided in Section 6.1.5 U.1.c.**
- H. The petitioner shall install sound reduction kits from the inverter manufacturer to each of the inverters in the solar farm so that operational sound levels for the duration of the solar farm will be less than 39 dBA at all existing residential lots within 1,500 feet of the project site and 39 dBA shall be the sound level that shall be enforced by Champaign County subject to the relevant standards of the Illinois Pollution Control Board and Illinois Environmental Protection Agency.**
- I. A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior to going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:**
1. **An as-built site plan of the PV SOLAR FARM including structures, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the PV SOLAR FARM to the substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
 2. **As-built documentation of all permanent soil erosion and sedimentation improvements for all PV SOLAR FARM including any access road prepared by an Illinois Licensed Professional Engineer.**

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- 3. A noise study to verify that the required sound reduction kits for all inverters result in less than 39 dBA noise level at all existing residential lots within 1500 feet of the project site.
- 4. An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B.(3)b.

J. The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with the following specific requirements that apply even after the PV SOLAR FARM goes into commercial operation:

- 1. Maintain the required visual screening for the perpetuity of the Special Use Permit.
- 2. Cooperate with local Fire Protection District to develop the District’s emergency response plan as required by 6.1.5 H.(2).
- 3. Cooperate fully with Champaign County and in resolving any noise complaints including reimbursing Champaign County any costs for the services of a qualified noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations as required by 6.1.5 I.(4).
- 4. Maintain a current general liability policy as required by 6.1.5 O.
- 5. Submit annual summary of operation and maintenance reports to the Environment and Land Use Committee as required by 6.1.5 P.(1)a.
- 6. Maintain compliance with the approved Decommissioning and Site Reclamation Plan including financial assurances.
- 7. Submit to the Zoning Administrator copies of all complaints to the telephone hotline on a monthly basis and take all necessary actions to resolve all legitimate complaints as required by 6.1.5 S.

K. The petitioner will consult with all land owners and residents (both participating and non-participating in the solar farm project) whose residences are within 1,000 feet of the solar farm regarding the types of plantings to be used in the required vegetative screening to be planted along the nearest solar farm fence line to the residence to minimize harm to existing residential landscaping and the Environment and Land Use Committee shall approve the proposed screening prior to the approval of the Zoning Use Permit.

L. Within the boundary of the solar farm, the petitioner shall replace the main tile for the Drainage District Number 1 of the Town of Sidney and no Zoning Compliance Certificate shall be authorized by the Zoning Administrator until written acceptance of the replaced main tile has been received from the Drainage District Number 1 of the Town of Sidney and all required “as-built” drawings showing the

location of the main drainage tile within the boundary of the solar farm have been filed with the Illinois Department of Agriculture and the Champaign County Soil and Water Conservation District.

M. Within the boundary of the solar farm, the petitioner shall replace all privately owned underground drainage tile that are identified and encountered, consistent with the "like kind" replacement proposed in the cover letter from Huddleston McBride Land Drainage of Rochelle, Illinois, that was received October 24, 2018, and with the petitioner's testimony regarding pattern tiling and consistent with both the Champaign County Storm Water Management and Erosion Control Ordinance and with the Agriculture Impact Mitigation Agreement and no Zoning Compliance Certificate shall be authorized by the Zoning Administrator until all required "as-built" drawings showing the location of all drainage tile within the boundary of the solar farm have been filed with the Illinois Department of Agriculture and the Champaign County Soil and Water Conservation District.

N. The petitioner shall maintain the privately owned, underground drainage tiles within the boundary of the solar farm for the lifetime of the special use permit including any repairs that may be necessary for up to one year after decommissioning and site reclamation.

Ms. Capel requested a roll call vote.

The roll call vote was as follows:

Griest – yes	Lee – no	Passalacqua – absent
Randol – no	Elwell – yes	DiNovo – yes
Capel – yes		

Mr. Hall informed the petitioner that he has received an approval for the request. He said that due to The County Board election, there is no ELUC meeting in December; therefore, Case 898-S-18 will be forwarded to ELUC in January 2019. He said that staff will contact the petitioner as soon as the 2019 dates are confirmed.

6. New Public Hearings

None

7. Staff Report

None

8. Other Business

1 **A. Review of Docket**

2
3 **B. Cancellation of December 13, 2018, and December 27, 2018, meetings.**

4
5 Mr. Hall stated that there are two decisions that the Board needs to make tonight. He said that the December
6 13th meeting no longer has any cases docketed; therefore, he would recommend that the December 13th
7 meeting be cancelled. Mr. Hall stated that regarding the December 27th meeting, the petitioner for Case 920-
8 V-18, Rick Keever, requested that his case be rescheduled to a later meeting date in 2019, and the petitioner
9 for Case 921-V-18, Stephen Roland, also requested that his case be rescheduled to a later meeting date
10 in 2019. He said that the meeting on December 27th could be cancelled as well, but if the meeting is held, the
11 petitioner for Case 922-S-18, SolAmerica, has requested to be moved up on the docket for that meeting. He
12 said that SolAmerica understands that they would not receive County Board approval until after the January
13 15th lottery date, but nonetheless they have requested to be moved up and the Board could accommodate
14 them.

15
16 Mr. DiNovo asked if SolAmerica wanted to be moved to the December 13th or December 27th meeting.

17
18 Mr. Hall stated the December 27th meeting. He said that Case 922-S-18 will heard at the second meeting in
19 January unless the Board retains the December 27th meeting and moves SolAmerica to that meeting. He
20 clarified that staff is providing the Board the opportunity to cancel the December 27th meeting, but if the
21 Board decides not to cancel the meeting, there will be two cases heard that night and one will be a solar
22 farm.

23
24 Mr. Randol asked when Case 921-S-18 would be heard if the December 13th and 27th meetings are cancelled.

25
26 Mr. Hall recommended that Case 921-S-18 be heard at the first meeting in January.

27
28 Ms. Griest stated that she and Ms. Capel will no longer be on the Board for the December meetings. She
29 asked Mr. Hall if there would be enough Board members attending the December meetings for a quorum.

30
31 Mr. Hall stated that, as far as he knows, there will be one vacant seat, but six members would be present at
32 the meeting.

33
34 Ms. Lee asked when the County Board could appoint a seventh member.

35
36 Mr. Hall stated that he had no idea, because the ZBA has operated for years without a full Board.

37
38 Mr. DiNovo stated that theoretically it could be January, but that is the earliest possible time.

39
40 Mr. Hall stated that he doubts that it would happen in January, but it is possible.

41
42 Ms. Capel asked if there were any applicants for the vacant seat.

43
44 Mr. Hall stated no.

1 **Mr. Randol moved, seconded by Ms. Lee, to cancel the December 13th and December 27th meetings of**
2 **the Champaign County Zoning Board of Appeals. The motion carried by voice vote.**

3
4 Ms. Lee stated that Ms. Berry has been absent from several meetings and wondered if she was okay.

5
6 Mr. Hall stated that Ms. Berry is recovering nicely, just as planned, and currently everything is okay.

7
8 Mr. Hall thanked Ms. Griest and Ms. Capel for their service on the Champaign County Zoning Board of
9 Appeals.

10
11 Ms. Griest and Ms. Capel thanked staff and the Board for allowing them the opportunity to serve on this
12 Board, and it has been an honor.

13
14 **9. Audience participation with respect to matters other than cases pending before the Board**

15
16 None

17
18 **10. Adjournment**

19
20 Ms. Capel entertained a motion to adjourn the meeting.

21
22 **Ms. Griest moved, seconded by Ms. Lee, to adjourn the meeting. The motion carried by voice vote.**

23
24 The meeting adjourned at 8:52 p.m.

25
26
27 Respectfully submitted

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32 Secretary of Zoning Board of Appeals
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